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EXAMINER

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ART UNIT PAPER NUMBER

3637

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/699,301
Filing Date: October 31, 2003
Appellant(s): RATERMAN ET AL.

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GROUP 3600

David W. Dorton
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 18, 2006 appealing from the
Office action mailed August 30, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2,283,690	MUNSON	5-1942
2,956,367	LYONS	10-1960
6,740,851	WOODLIEF et al	5-2004
1,782,898	HUNTER	11-1930
2,252,542	BEEH	8-1941

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Munson. Munson teaches an apparatus (Figs. 1 and 2) comprising: a base (14) with a sidewall (15a) and top surface (21). The base also includes an opening (see Fig. 2), a drawer (24) and a coupling member/flange (20) proximate the top surface and configured to secure a device/dispenser to the top surface. Note: the dispenser is not positively being claimed in combination with the apparatus.

Claims 1, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Lyons. Lyons teaches an apparatus (Fig. 9) comprising: a base (52) with a sidewall and top surface. The base also includes a drawer (21,22) and a coupling member/flange with horizontal leg (Fig. 14; leg numeral 59) proximate the top surface and configured to

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secure a device/dispenser to the top surface. Note: the dispenser is not positively being claimed in combination with the apparatus.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodlief et al in view of Hunter. Woodlief teaches an apparatus (Figs. 1 and 2) comprising: a base (38) with a sidewall and top surface. The base includes a coupling member (10) proximate the top surface for securing an adhesive dispenser (12) thereto. The coupling member includes a plate and first and second dispenser engaging members (16,18,20,22) with various flanges. For claims 1 and 8, Woodlief fails to teach that the base includes a drawer, sliding shelf or swing-out plate. Hunter teaches a base (10) for a machine that includes a drawer (11) therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Woodlief by using an alternate base therein, i.e. using the base of Hunter instead of the base presently used therein, to provide a base having the additional feature of article storage.

For claims 2 and 9, since the mounting plate of Woodlief in view of Hunter already includes cable openings (26, 28), to add corresponding openings in the base would have been an obvious consideration, to provide a path to route cables of the dispenser under the apparatus and then to a power source, etc.

(10) Response to Argument

First, the examiner contends that the references of Woodlief and Hunter are analogous references. Both teach the use of bases in conjunction with machinery. In

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Hunter, the base includes a drawer. In Woodlief, the base includes attachment means between the base and machine, i.e. a hot melt adhesive system. As stated above, to modify the base of Woodlief by making it a structure with a drawer would have been obvious to one of ordinary skill in the art, for the article storage advantage stated above. The fact that Hunter teaches a different type of machinery is irrelevant. Hunter is only being used for its base teaching.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Second, the examiner argues that Munson and Lyons teach all of the limitations found in the claims. Please note: claim 1 states that the coupling member is "configured to removably secure the adhesive dispenser to said top surface". The securement means found in each are "configured to removably secure a device, e.g. an adhesive dispenser" thereto. As shown in the reference of Beeh (2,252,542 cited previously) and Woodlief (used in a separate art rejection), adhesive dispensers come in various shapes and sizes. Furthermore, as stated above, the dispenser is never positively claimed; therefore, the bases only need to be capable of securing such a member

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thereto. Also for Lyons, since feet are common on machinery, these feet would be used as part of the securement of this machinery on the base of Lyons.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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